

REMARKS

Amendments

Before this Amendment, claims 1, 3-17 and 19-24 were present for examination. Claims 1, 3, 9-12, and 14 are amended by this paper, and no claims are canceled or added. Therefore, claims 1, 3-17 and 19-24 are present for examination, and claims 1, 9, and 14 are the independent claims. No new matter is added by these amendments.

This amendment is submitted in conjunction with a Request for Continued Examination under 37 C.F.R. § 1.114. Applicants respectfully request reconsideration and further examination of the application in view of the amendments and the following remarks.

Claim Amendments

Independent claims 1, 9, and 14 have been amended to further clarify the operation of the claimed inventions.

For example, claim 1 has been amended to recite that *the first interface is operable to receive a bid premium from one of a plurality of entities competing for access to an elective balance through bid premiums*, and that *the second input from the holder of the elective account balance subsequent to the second interface presenting the bid premium to the holder*. This amendment clarifies that the first interface receives bid premiums from a plurality of entities and that the second input is received from the holder *after* the second interface presents the bid premiums to the holder.

This amendment finds support in the specification at least in paragraphs [0010], [0027], [0043], [0044], and [0049]. Claims 9 and 14 are similarly amended. Dependent claim 3 is amended to harmonize its language with that of independent claim 1. The amendments to claims 1, 9, and 14 also provide additional detail about the *bid premium*, as described in the specification at least in paragraph [0010].

Claims 9-12 are amended to further clarify that the method steps are performed by *a computerized servicing engine*.

Rejection Under 35 U.S.C. § 101

The Office Action has rejected claims 9-13 and 23 under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter.

Specifically, the Office Action alleges that the claimed method steps could be performed by mental process alone, and are therefore not directed to statutory subject matter. The Office Action suggests that “the claim should positively recite the machine to which it is tied, for example by identifying the machine that accomplished the method steps....” (Office Action p. 3).

Although Applicants disagree that the claimed steps can be performed by mental processes alone, in the interest of expediting allowance of the claims claim 9 has been amended to recite that its steps are performed by a *computerized servicing engine*, and the claim is therefore tied to a particular machine. A *computerized servicing engine* is described in the specification at least in paragraph [0028] and in Figures 1 and 2. Applicants believe the rejection to be overcome and respectfully requests that it be withdrawn.

Rejection Under 35 U.S.C. § 103(a), Chien, Ghouri, Official Notice

The Office Action has rejected claims 1 and 3-8 under 35 U.S.C. §103(a) as being allegedly unpatentable over the cited portions of Chien, U.S. Patent Publ. 2001/0054003 (“Chien”), in view of the cited portions of Ghouri, U.S. Patent Publ. 2002/0082978 (“Ghouri”), and further in view of Official Notice.

The cited references, even in combination, do not teach or suggest each and every limitation of the claims, and the claims are therefore believed allowable.

For example, claim 1 recites that *the first interface is operable to receive a bid premium from one of a plurality of entities competing for access to an elective balance through bid premiums* and that *the second input from the holder of the elective account balance subsequent to the second interface presenting the bid premium to the holder....* Claim 1 thus recites a system that receives bid premiums from entities competing for access to a holder’s account balance and that receives the second input from the holder after the bid premiums are presented to the holder. The system of presenting bid premiums to the holder before the holder

provides the second input thereby creates the competitive auction-like market useful to capture elective balances.

Neither Chien nor Ghouri includes such a recitation. Chien describes a system and method for using loyalty points to make purchases. In Chien, a participant first selects an item to purchase, then selects the payment button, then logs into an account manager website, and finally selects pay with loyalty points (Chien paragraphs [0050]–[0051]). After the participant selects pay with loyalty points, the participant then provides merchant and transaction information to the account manager (Chien paragraph [0051]), one or more conversions take place (Chien paragraphs [0052] – [0053]), and then the conversion ratio and loyalty points are presented to the participant and the participant is provided with the option to approve or cancel the request (Chien paragraph [0054]). The Office Action argues that the Chien conversion ratio is equivalent to the premium bid in the present application. (Office Action p. 7). Even if, *arguendo*, this reading of Chien were to be accepted, the conversion ratio in Chien, is presented to the participant after the participant selects an item.

Likewise, Ghouri describes a "reverse auction" system, wherein a consumer specifies the kind and configuration of a vehicle he or she wishes to purchase, and dealers compete for the sale by offering prices at which they would be willing to sell the specified vehicle. The consumer can then select the lowest price. (Ghouri Abstract). Similar to Chien, the dealers' bids in Ghouri are presented to the consumer after the consumer selects the vehicle.

Thus, neither Chien nor Ghouri discloses receiving *the second input from the holder of the elective account balance subsequent to the second interface presenting the bid premium to the holder*.

The Office Action takes Official Notice that it is well known "to provide a redemption amount that is of a same unit of measurement as the elective balance." (Office Action p. 4). This limitation, however, was deleted from claim 1 in a previous office action response, rendering this part of the rejection moot.

Chien and Ghouri, even in combination, do not teach or suggest each and every limitation of claim 1. Claim 1 is thus believed allowable over the combination of Chien and Ghouri. Claims 3-8 depend from claim 1 and add further limitations, and are therefore also believed allowable for at least this reason.

Rejection Under 35 U.S.C. § 103(a), Chien, Ghouri

The Office Action has rejected claims 9-17 and 19-21 under 35 U.S.C. §103(a) as being allegedly unpatentable over the cited portions of Chien in view of the cited portions of Ghouri.

Claims 9-13

Claim 9 is a method claim reciting several steps analogous to the steps performed by the system of claim 1. Claim 9 is believed allowable for reasons similar to those given above. Claims 10-13 are believed allowable at least by virtue of their dependence from allowable claim 9.

Claims 14-17 and 19-21

Similarly, claim 14 is a method claim reciting several steps analogous to the steps performed by the system of claim 1. Claim 14 is believed allowable for reasons similar to those given above. Claims 15-17 and 19-21 are believed allowable at least by virtue of their dependence from allowable claim 14.

Claims 22-24

The Office Action does not specifically address the elements of claims 22-24. Claims 22-24 depend respectively from claims 1, 9, and 14. As is explained above, claims 1, 9, and 14 are believed allowable, and claims 22-24 are therefore also believed allowable, at least by virtue of their dependence from allowable base claims.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 10/645,722

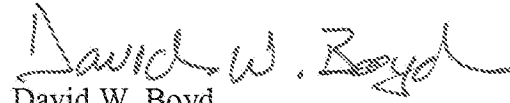
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Amdt. dated March 23, 2010

Reply to Office Action of November 23, 2009

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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